IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 8424 of 2004

Between:

M/S Hindustan Cables Limited, a Government of India undertaking,

Hyderabad unit, Cherlapally, Ranga Reddy
District, rep.by its Deputy General Manager(Finance)

M.Venkateswarlu, S/o Sriramulu, aged about 53 years,
Hyderabad

..... PETITIONER

AND

1. Assistant Provident Fund Commissioner (Exem) Employees

Provident Fund Organisation, Regional Office
3-4-763, Bhavishya Nidhi Bhavan, Barkatpura, Hyderabad.
2. Employees Provident Fund Organisation, rep.by its Provident Fund

Commissioner, Ministry of Labour, Government of India,
Regional Office,3-4-763, Bhavishya Nidhi Bhavan,
Barkatpura, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ declaring that the action of the 1st respondent contained in order No. AP/3729/RO/PD Cell/2004/7834 dt. 9/10-

03-2004 directing attachment of the amount which is due to the petitioner company from M/s B.S.N.L., is illegal, and arbitrary, and being contrary, to the provisions contained is section 22 of the Sick, Industrial Companies (Speical Provisions) Act, 1895 and direct the respondents to forbear from recovering any amount from the petitioner or from the amounts payable to the petitioner by its principals such as M/S B.S.N.L. towards arrears of Provident Fund contribution amounts, without obtaining prior consent of B.I.F.R.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondent No.1 and 2: MR.R.N.REDDY

The Court made the following:

O R D E R :

Heard the learned counsel for the petitioner and the learned

counsel appearing for the respondents.

This writ petition is filed aggrieved by the notice issued by the first respondent dated 9/10-03-2004 whereunder directions were issued to M/s. Bharat Sanchar Nigam Limited to withhold the amount payable to the petitioner Company towards the value of the work that was executed by the petitioner company alleging that a sum of Rs.40,37,755/- is due from the petitioner company towards arrears of Provident Fund Contribution. Consequently, a direction was also sought to the respondents to forbear from recovering any amount from the petitioner or from the amount payable to the petitioner by its Principal – M/s. Bharat Sanchar Nigam Limited towards arrears of Provident Fund contribution.

This Court by order dated 30-04-2004 granted interim suspension subject to the condition that the petitioner deposits 50% of the amount demanded under the impugned order dated 9/10-3-2004 within six weeks failing which stay shall stand vacated automatically and the respondents are at liberty to proceed against the petitioner for recovery of the entire amount.

When this mater is taken up for consideration, it is represented

by the learned Counsel for the respondents that the petitioner failed to comply with the condition imposed under the interim order dated 30-04-2004. The said fact has not been disputed by the learned counsel for the petitioner. Be that as it may, the learned Counsel for the respondents submits that the impugned order was issued consequent to the order passed by the competent authority under the provisions of The Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short, 'the Act') determining the liability of the petitioner and against the said order an appeal lies under Section 7-I of the Act and therefore it would be appropriate for the petitioner to work out the said alternative remedy available under the Act.

In the circumstances, the Writ Petition is disposed of granting liberty to the petitioner to prefer an appeal against the order on the basis of which the impugned notice was issued, within a period of six weeks from today. No costs.

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23-12-2004.

Lrkm.

To

1. The Assistant Provident Fund Commissioner (Exem) Employees

Provident Fund Organisation, Regional Office
3-4-763, Bhavishya Nidhi Bhavan, Barkatpura, Hyderabad.

2. The Provident Fund Commissioner, Employees Provident Fund

Organisation, Ministry of Labour, Government of India,
Regional Office,3-4-763, Bhavishya Nidhi Bhavan,
Barkatpura, Hyderabad.

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